

HOUSE No. 3330

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

AN ACT RELATIVE TO THE REGULATION OF SNOW AND RECREATION VEHICLES.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	24th Middlesex
George N. Peterson, Jr.	9th Worcester
Patricia D. Jehlen	Second Middlesex
Peter v. Kocot	1st Hampshire
Barbara A. L'Italien	18th Essex
Kay Khan	11th Middlesex
Sarah K. Peake	4th Barnstable
Frank I. Smizik	15th Norfolk
Cheryl A. Coakley-Rivera	10th Hampden
Elizabeth A. Malia	11th Suffolk
Cleon H. Turner	1st Barnstable
Rosemary Sandlin	3rd Hampden

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE REGULATION OF SNOW AND RECREATION VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 10H of Chapter 21A of the General Laws, as appearing in the 2006
Official Edition, is hereby amended by inserting, after the third paragraph, the following:-

A person notified to appear before the clerk of a district court as provided in section 10G for violation of
section 21 to section 24, section 25, sections 26C through 26G, or 27 of said chapter 90B, may so appear
within the time specified and pay a fine of \$150 dollars.

A person notified to appear before the clerk of a district court as provided in section 10G for violation of
subsection (e) of section 26, sections 26A and 26B, or section 121A of chapter 266 may so appear within
the time specified and pay a fine of \$250 dollars.

SECTION 2. Section 11 of Chapter 21A is hereby amended by striking the section in its entirety and
inserting in place thereof the following new section:-

There is hereby established within the office of law enforcement an advisory board to be designated as the
boating safety advisory board. The board shall consist of 5 members to be appointed by the governor, 2 of
whom shall be representative of the boating public each of whom shall hold a certificate of number issued
pursuant to section 3 of chapter 90 B, one of whom may represent the harbormaster's association and 2

members shall represent the recreational boating business, one of whom shall operate a boat dealership.

Each member shall serve for a term of 3 years. The chairman of the board shall be appointed, from the five members, annually by the governor, and in the absence of same shall be designated by the director.

Board members shall be appointed or reappointed for terms of 3 years.

The boating safety advisory board shall meet at least quarterly and three members in attendance shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland enforcement bureau established under section 6 of chapter 21, or their designees, shall attend all meetings of said board and shall provide such information as said board shall request.

Said board shall review the budgetary recommendations of the director and the secretary of the executive office of environmental affairs concerning the expenditure of federal funds allocated to the division for recreational boating safety each fiscal year prior to the submission of such recommendations to the secretary or the governor, as the case may be. In the event said board disapproves of any such recommendation it may file a report noting its objection and such report shall be transmitted to the governor and to the house and senate committees on ways and means.

SECTION 3. Chapter 21A is hereby further amended by inserting the following new sections:-

Section 18B. There is hereby established within the executive office of energy and environmental affairs a state off-highway vehicle advisory committee. The committee shall advise the secretary and the department of conservation and recreation, the department of fish and game, the department of environmental protection, and the office of environmental law enforcement within said executive office on matters involving the commonwealth's regulation of off-highway vehicles, including the development and enforcement of state regulations and policies, safety and training programs, and the distribution of available state funding. The secretary shall appoint the members of the committee, which shall consist of 12 members. Of the committee members, 3 shall be representatives of off-highway vehicle users, one of which shall be a representative of the New England Trail Riders Association; 1 shall be a representative of the off-highway vehicle manufacturers and dealers; 1 shall be a representative of the department of

public health and child advocates associated with the safe use of off-highway vehicles; 1 shall be a representative of snowmobile association of Massachusetts; 3 shall be representatives of a non-profit organization that owns and manages land open to the public; 1 shall be a representative of an association or organization of large private land owners; and 2 shall be representatives of state or local law enforcement authorities. Members shall be appointed for terms of 3 years, except that, initially, 4 members shall be appointed for 1 year and 4 members shall be appointed for 2 years. The committee shall select a chairperson annually by a majority vote of the members. The committee shall meet at least twice each year, and shall also meet at the request of the secretary or committee chairperson.

Section 18C.

(1) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Off Highway Vehicle Program Fund. There shall be credited to the fund all fees collected by the commonwealth pursuant to sections 21 to 32, inclusive, of chapter 90B, and all fines, costs, expenses, and interest imposed by the commonwealth pursuant to its authority under sections 26 and 34 of chapter 90B, section 10H of chapter 21A, or section 121A of chapter 266, any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any appropriation or grant explicitly made to the fund, and any income derived from the investment of amounts credited to the fund.

(2) All amounts credited to the fund may be expended without further appropriation by the executive office of energy and environmental affairs and its office of environmental law enforcement, department of conservation and recreation, department of fish and game, and department of environmental protection for the following purposes:

(a) the enforcement of statutes, regulations, and policies applicable to off-highway vehicles;

(b) the acquisition of land for use as commonwealth-approved trails and facilities for off-highway vehicles or for the development, maintenance, repair or restoration of said commonwealth-approved trails and facilities;

(c) for grants made by the department of conservation and recreation to municipalities and other public entities for the purposes of subsection (2)(a)-(b);

(d) the development and administration of safety, training and education programs; and

(e) for all direct and indirect costs of administering the activities in subsection (2)(a)-(d), including the direct and indirect costs of personnel or contractors of the said executive office and its office of environmental law enforcement and departments.

(3) Not less than twenty-five percent of the monies deposited in the fund shall be expended on a fiscal year basis for the activities identified in subsection (2)(b) or for grants made pursuant to subsection (2)(c) to fund the activities identified in subsection (2)(b). Monies that are deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

SECTION 4. Section 20 of chapter 90B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting, in line 3 after the word “meanings” the following definition:-

“All Terrain Vehicle (ATV)”, a motorized recreational vehicle designed to travel on four low pressure tires having a seat designed to be straddled by the operator and handlebars for steering control.

SECTION 5. Said section 20 of said chapter 90B, as so appearing, is hereby further amended by striking the definition of “Law enforcement officer”, and insert in place thereof the following definition:-

“Law enforcement officer”, the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the office of environmental law enforcement, executive office of energy and environmental affairs, police officers, members of the state police, and city and town police officers or employees of the commonwealth having police powers on public lands.

SECTION 6. Said section 20 of said chapter 90B, as so appearing, is hereby further amended by inserting, after the definition of “Owner” the following definition:-

“Recreation Utility Vehicle/Utility Vehicle,” a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

SECTION 7. Said section 20 of said chapter 90B, as so appearing, is hereby further amended by striking the definition of “Recreational Vehicle” and inserting in place thereof, the following definition:-

“Recreation Vehicle”, any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in chapter ninety, including but not limited to, all terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles, and all legally registered motor vehicles when used off a way, as defined in chapter 90, including motorcycles; said recreation vehicles are also referred to as “off-highway vehicles” or “off-road vehicles;” provided, however, that vehicles used solely for agriculture, forestry, lumbering or construction purposes shall be excluded from this definition when used exclusively for such purpose and when a declaration of exemption has been filed with the director in accordance with section 22 of chapter 90B; provided, further, that in any complaint brought under this chapter the burden shall be upon the defendant to prove such use. Any motor vehicle legally registered under chapter ninety will not be subject to registration under this chapter but registration numbers shall be displayed as required by said chapter 90.

SECTION 8. Section 21 of said chapter 90B, as appearing in the 2006 Official Edition, is hereby amended by striking the language in the first paragraph and inserting in place thereof the following new language:-

No person shall operate a snow vehicle or a recreation vehicle unless the owner of such vehicle has registered, or if applicable, filed a certificate of exemption, in accordance with the provisions of this chapter, except that a snow vehicle or a recreation vehicle purchased in Massachusetts but operated exclusively outside of the state is not required to be registered, provided the owner has filed a certificate of exemption in accordance with the provisions of section 22 of this chapter. A law enforcement officer may seize any snow vehicle or recreation vehicle that is unregistered or for which a certificate of exemption has not been filed, and may hold such vehicle until the owner has registered or filed a certificate of exemption for the vehicle in accordance with this chapter. In such cases, the owner of such vehicle shall be responsible for all costs associated with the seizure and storage of the vehicle.

SECTION 9. Section 22 of said chapter 90B, as appearing in the 2006 Official Edition, is hereby further amended by striking the first paragraph and inserting in place thereof the following sentences:-

At the time of purchase or transfer of ownership of a snow vehicle or a recreation vehicle, the owner of said vehicle shall apply to register the vehicle to the director or his agent. The application for registration shall be made on forms prescribed by the director and include the name and address of the owner of the vehicle. Upon receipt of the application and the appropriate fee, as hereinafter provided, such vehicle shall be registered and a registration number assigned which shall be affixed to said vehicle in such manner as the director shall prescribe. In the case of a recreation vehicle to be used exclusively outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or construction purposes, at the time of purchase or transfer of ownership of such vehicle, the owner shall file a declaration of exemption with the director or his agent. The declaration of exemption shall be made on forms prescribed by the director and include a certification by the owner, as applicable, that vehicle will be used exclusively

outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or construction purposes. Upon receipt of the declaration of exemption, for which no fee will be charged, such vehicle will be exempt from the requirements of chapter ninety B, provided the vehicle is used for said purposes. The director shall maintain a record of the declaration of exemptions filed pursuant to this section, and may, by regulation, establish further requirements for identifying such vehicles.

SECTION 10. Section 22 of said chapter 90B is further amended by inserting, in line 10, after the word “registration” the following words:- “or declaration of exemption”.

SECTION 11. Section 24 of said chapter 90B is hereby amended by striking the first sentence and inserting in place thereof the following sentence:- “Except for snow vehicles manufactured prior to July 1, 1972, each snow vehicle and each registration vehicle shall be equipped with one or more headlights, a red rear light, a red rear reflector, and adequate muffler, and such safety equipment as may be required by the director.”

SECTION 12. Section 24 of said chapter 90B is hereby amended by inserting, in line 2, after the word “light,” the following words:-

“, a rear brake light,”.

SECTION 13. Section 24 of said chapter 90B is hereby amended by striking the sentence in lines 14 and 15 and inserting in place thereof the following paragraph:-

Every person operating or riding in or on a recreation vehicle or a snow vehicle or a sled attached thereto shall wear protective headgear conforming with such minimum standards for construction and performance as the registrar of motor vehicles may prescribe.

SECTION 14. Section 24 of said chapter 90B is hereby further amended by striking the third paragraph and inserting in place thereof the following paragraph:-

No snow vehicle and no recreation vehicle shall be operated which emits obnoxious fumes or which makes an unusual or excessive noise. No snow vehicle or recreation vehicle manufactured after January the first, nineteen hundred and ninety eight shall be sold, offered for sale, or operated that produces a sound pressure level of more than ninety six dbA when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for measurement of sound pressure levels as the registrar of motor vehicles may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1, 1998 shall be offered for sale or operated that produces a sound pressure level of more than one hundred and one dbA when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for measurement of sound pressure levels as the registrar of motor vehicles may adopt

No person shall operate a snow vehicle or a recreation vehicle with more than one rider unless the vehicle is designed and equipped by the manufacturer to carry more than one person.

SECTION 15. Section 25 of said chapter 90B is hereby further amended by striking the first sentence of the third paragraph and inserting in place thereof the following sentence:-

After coming to a full stop a snow vehicle or a recreation vehicle may cross, as directly as possible, a public way, except a controlled access highway, provided, however, that in the case of recreation vehicles, such public way crossing must be marked and approved for use by said vehicles by the applicable state or local authorities as part of a public or privately authorized recreation vehicle trail system, and provided further that such crossing can be made in a safe manner and it does not interfere with the free movement of vehicular traffic.

SECTION 16. Section 25 of said chapter 90B is hereby further amended by inserting at the end of the third paragraph, the following sentence:- No person under 16 ½ years of age shall operate a snow vehicle or a recreation vehicle across or on a public way unless said operator has a motor vehicle driver's license

or a learner's permit or is directly supervised, as defined in section 26D of chapter 90B, by an adult that is 18 years of age or older.

SECTION 17. Section 25 of said chapter 90B is hereby further amended by inserting, in line 47, after the word "vehicles" the following words:- provided that in the case of a recreation vehicle said way is marked and approved for use by recreation vehicles as part of an public or privately authorized recreation vehicle trail system.

SECTION 18. Section 26 of said chapter 90B is hereby amended by striking the section in its entirety and inserting in place thereof the following sentences:-

Section 26. (a) (1) No person shall operate a snow vehicle or a recreation vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter 94C, or the vapors of glue.

Whoever so operates a snow vehicle or a recreation vehicle shall be punished by a fine of not less than \$250 nor more than \$1,000 or by imprisonment for not more than 2 ½ or by both fine and imprisonment.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not less than 60days nor more than 2 ½ years or by both fine and imprisonment.

(b) (1) In any prosecution for a violation of subsection (a), evidence of the percentage, by weight, of alcohol in the defendant's blood at the time of the alleged offense, as shown by chemical test or analysis of his blood or as indicated by chemical test or analysis of his breath, shall be admissible, and such failure or refusal shall be admissible in any action by the registrar under this section or in any proceedings

provided for in 24N of chapter 90, and deemed relevant to the determination of the question of whether the defendant was at such time under the influence of intoxicating liquor; provided, however, that if such test or analysis was made by or at the direction of a law enforcement officer, it was made with the consent of the defendant, the results thereof were made available to the defendant upon his request and the defendant was afforded a reasonable opportunity, at his request and at his expense, to have another such test or analysis made by a person or physician selected by him; and provided, further, that blood shall not be withdrawn from any person for the purpose of such test or analysis except by a physician, registered or certified medical technician; and, provided further, that a chemical test or analysis of the defendant's breath shall be by means of equipment which has been calibrated within 30 days of its use.

Evidence that the defendant failed or refused to consent to such test or analysis shall not be admissible against him in a civil or criminal process but any failure of the law enforcement officer to attempt to administer or have administered such test or analysis, shall be so admissible. If such evidence is that such percentage was five one-hundredths or less, there shall be a presumption that such defendant was not under the influence of intoxicating liquor, and he shall be released from custody forthwith, but the officer who placed him under arrest shall not be liable for false arrest, if such law enforcement officer had reasonable grounds to believe that the person arrested had been operating a snow vehicle or a recreation vehicle while under the influence of intoxicating liquor; if such evidence is that such percentage was more than five one-hundredths but less than eight one-hundredths, there shall be no presumption. A certificate, signed and sworn to, by a chemist of the department of state police or by a chemist of a laboratory certified by the department of public health, or a reading from a device certified by said department as providing accurate readings of the percentage of alcohol in blood, and signed and sworn to by the law enforcement officer who administered such test which contains the results of an analysis of the percentage of alcohol in such blood shall be prima facie evidence of the percentage of alcohol in such blood.

Whoever operates a snow vehicle or a recreation vehicle in the commonwealth shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating while under the influence of intoxicating liquor; provided, however, that no person shall be

deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions of section 51 of chapter 111; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be administered at the direction of a law enforcement officer, having reasonable grounds to believe that the person arrested has been operating a vessel under the influence of intoxicating liquor.

(A) If a person arrested for operating a snow vehicle or a recreation vehicle while under the influence of intoxicating liquor refuses to submit to such test or analysis, after having been informed that his license, permit or right to operate motor vehicles shall be suspended and any registration numbers may be revoked for a period of one hundred and twenty days for such refusal, no such test or analysis shall be made, but the officer before whom such refusal was made shall immediately prepare a written report of such refusal. Each such report shall be made on a form approved by the registrar, and shall be sworn to under the penalties of perjury by the officer before whom such refusal was made. Each such report shall set forth the grounds for the officer's belief that the person arrested had been operating a snow vehicle or a recreation vehicle while under the influence of intoxicating liquor, and shall state that such person had refused to submit to such chemical test or analysis when requested by such officer to do so such refusal having been witnessed by another person other than the defendant. Each such report shall identify which police officer requested said chemical test or analysis, and the other person witnessing said refusal. Each such report shall be sent forthwith to the registrar and to the director along with a copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar deems appropriate. Upon receipt of such report, the registrar shall suspend any license or permit to operate motor vehicles issued to such person under chapter 90 or the right of such person to operate motor vehicles in the commonwealth under section 10 for a period of one hundred and twenty days, and the director may revoke any and all registration numbers of any snow vehicles or recreation vehicles of such person and may refuse to issue any registration numbers to such vehicles for a period of 120 days. Said report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding any

suspension specified in this section.

(B) Any person whose license, permit or right to operate motor vehicles has been suspended or whose registration number has been revoked under subsection (b) shall be entitled to a hearing before the registrar which shall be limited to the following issues: (i) did the officer have reasonable grounds to believe that such person had been operating a snow vehicle or a recreation vehicle while under the influence of intoxicating liquor within the commonwealth, (ii) was such person placed under arrest and (iii) did such person refuse to submit to such test or analysis. If, after such hearing, the registrar finds on any one of the said issues in the negative, the registrar shall reinstate such license, permit or right to operate motor vehicles of such person and shall notify the director of such reinstatement. Upon receipt of such notification, the director shall reinstate such registration number to the snow vehicle or the recreation vehicle of such person.

Notwithstanding any of the foregoing, any person whose registration number has been revoked under subsection (b) may at any time apply for and shall, within 15 days, be granted a hearing before the director for the purpose of requesting the issuance of a certificate of number on the grounds of hardship and the director may, in his discretion, issue such certificate of number under such terms and conditions as he deems appropriate and necessary.

If a person fails to pay a civil administrative penalty assessed pursuant to this section within ninety days of the time it becomes final, such person shall be liable to the commonwealth for up to 3 times the amount of such penalty, together with the costs, plus interest from the time the civil administrative penalty became final, including all costs and attorney's fees incurred directly in the collection thereof. The rate of interest shall be the rate set forth in section 6C of chapter 231. The director shall refuse to issue an original registration number or to renew the registration number for any snow vehicle or recreation vehicle owned by a person who fails to pay such civil administrative penalty and any related penalties or costs, until such payment is made in full.

(c) (1) A conviction of a violation of subsection (a) shall revoke the license or right to operate motor vehicles and may, in the discretion of the director, revoke the registration number of the person so

convicted, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of the license, right to operate, or registration number. Such revoked license and registration number shall immediately be surrendered to the prosecuting officer who shall forward the license to the registrar and the certificate of number to the director. The court shall report immediately any revocation, under this paragraph, of a license or right to operate to the registrar and to the police department of the municipality in which the defendant is domiciled and any revocation, under this paragraph, of a registration number to the director.

(2) Where the license, right to operate, or registration number has been revoked under this subsection, and such person has not been convicted of a like offense or has not been assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth within a period of ten years preceding the date of the commission of the offense for which he has been convicted, the registrar shall not restore the license or reinstate the right to operate to such person and the director may refuse to issue a registration number to the snow vehicle or the recreation vehicle of such person unless the prosecution of such person has terminated in favor of the defendant, until one year after the date of conviction; provided, however, that if such person has been placed under probation as provided by subsection (c) and has successfully completed all terms of such probation, the registrar shall not restore the license or reinstate the right to operate to such person and the director may refuse to issue a registration number to the snow vehicle or the recreation vehicle of such person until 45 days after the date of conviction.

Where the license, right to operate or registration number of a person has been revoked under this subsection, and such person has been previously convicted of or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense within a period of ten years preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not restore the license or reinstate the right to operate and the director may refuse to issue a registration number to the snow vehicle or the recreation vehicle of such person unless the prosecution of such person has terminated in favor of the defendant, until two years after the date of the conviction;

provided, however, that such person may, after the expiration of one year from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past like offenses have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary.

Notwithstanding the foregoing, no new license shall be issued or right to operate be reinstated by the registrar to any person convicted of a violation of subsection (a) until ten years after the date of conviction in case the registrar determines upon investigation and after hearing that the action of the person so convicted in committing such offense caused an accident resulting in the death of another, nor at any time after a subsequent conviction of such an offense, whenever committed, in case the registrar determines in the manner aforesaid that the action of such person, in committing the offense of which he was so subsequently convicted, caused an accident resulting in the death of another.

Notwithstanding any of the foregoing, any person whose registration number has been revoked under this subsection may at any time apply for and shall within fifteen days be granted a hearing for the purpose of requesting the issuance of a registration number on the grounds of hardship and the director may, in his discretion, issue such certificate of number under such terms and conditions as he deems appropriate and necessary.

For the purposes of this subsection, a person shall be deemed to have been convicted if he pleaded guilty or nolo contendere or was found or adjudged guilty by a court of competent jurisdiction, whether or not he was placed on probation without sentence or under a suspended sentence or the case was placed on file, and a license may be revoked under this subsection notwithstanding the pendency of a prosecution upon appeal or otherwise after such a conviction. Where there has been more than one conviction in the same prosecution, the date of the first conviction shall be deemed to be the date of conviction under this paragraph.

(d) (1) No person shall operate a snow vehicle or a recreation vehicle recklessly or negligently so as to

330 endanger the lives or safety of the public. Whoever operates a snow vehicle or a recreation vehicle
331 recklessly, or operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the
332 public might be endangered, or upon a bet or wager or in a race, or whoever operates a snow vehicle or a
333 recreation vehicle for the purpose of making a record and thereby violates any speed regulation, or
334 whoever without stopping and making known his name, residence and the registration number of his
335 snow vehicle or recreation vehicle goes away after knowingly colliding with or otherwise causing injury
336 to any other snow vehicle or recreation vehicle or property, or whoever knowingly makes any false
337 statement in an application for a registration number of a snow vehicle or recreation vehicle shall be
338 punished by a fine of not less than \$250 dollars nor more than \$1,000 dollars or by imprisonment for not
339 more than two and one-half years, or both fine and imprisonment. For a subsequent offense, by a fine of
340 not less than five hundred dollars nor more than five thousand dollars or by imprisonment for not less
341 than 60 days nor more than 2 ½ years or by both fine and imprisonment.

342 Whoever uses a snow vehicle or a recreation vehicle without authority knowing that such use is
343 unauthorized shall, for the first offense be punished by a fine of not less than \$50 nor more than \$500 or
344 by imprisonment for not more than 2 years, or by both fine and imprisonment, and for a subsequent
345 offense by a fine of not less than \$500 dollars nor more than \$1,000 or by imprisonment for not more than
346 2 ½ years.

347 Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making known his
348 name, residence and the registration number of his snow vehicle or recreation vehicle, goes away after
349 knowingly colliding with or otherwise causing injury to any person shall be punished by imprisonment
350 for not less than 2 months nor more than 2 ½ years.

351 A summons may be issued instead of a warrant for arrest upon a complaint for a violation of any
352 provision of this subsection if in the judgment of the court or justice receiving the complaint there is
353 reason to believe that the defendant will appear upon a summons.

(e) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes serious bodily injury, shall be punished by imprisonment in the state prison for not less than 2 ½ years nor more than 10 years and by a fine of not more than \$5,000, or by imprisonment in a jail or house of correction for not less than 6 months nor more than 2 ½ years and by a fine of not more than \$5,000.

The sentence imposed upon such person shall not be reduced to less than 6 months, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least 6 months of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file.

The provisions of section 87 of chapter 276 shall not apply to any person charged with a violation of this section.

(2) For the purposes of this subsection “serious bodily injury” shall mean bodily injury which creates a substantial risk of death or which involves either total disability or the less or substantial impairment of some bodily function for a substantial period of time.

(3) The registrar shall revoke the license or right to operate and the director shall revoke the registration number of a person convicted of a violation of this subsection for a period of two years after the date of conviction. No appeal, motion for new trial or exception shall operate to stay the revocation of said license, right to operate or certificate of number provided, however, that such license, right to operate and certificate of number shall be restored if the prosecution of such person ultimately terminates in favor of the defendant.

Notwithstanding the foregoing, any person whose registration number has been revoked under this section may at any time apply for and shall within fifteen days be granted a hearing for the purpose of requesting the issuance of a registration number on the grounds of hardship and the director may, in his discretion, issue such certificate of number under such terms and conditions as he deems appropriate and necessary.

(f) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be punished by imprisonment in the state prison for not less than 2 ½ years nor more than 15 years and a fine of not more than \$5,000 dollars, or by imprisonment in a jail or house of correction for not less than 1 year nor more than 2 ½ years and a fine of not more than \$5,000. The sentence imposed upon such person shall not be reduced to less than 1 year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least 1 year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276, shall not apply to any person charged with a violation of this section.

(2) The registrar shall revoke the license or right to operate and the director shall revoke the registration number of a person convicted of a violation of this subsection for a period of ten years after the date of conviction for a first offense. The registrar shall revoke the license or the right to operate and the director shall revoke the registration number of a person convicted for a subsequent violation of this subsection for the life of such person. No appeal, motion for a new trial or exceptions shall operate to stay the revocation

of the license, right to operate, or registration number provided, however, such license, right to operate and registration number shall be restored if the prosecution of such person ultimately terminates in favor of the defendant.

Notwithstanding the foregoing, any person whose registration number has been revoked under this subsection may at any time apply for and shall within 15 days be granted a hearing for the purpose of requesting the issuance of a certificate of number on the grounds of hardship and the director may, in his discretion, issue such certificate of number under such terms and conditions as he deems appropriate and necessary.

(g) Any snow or recreation vehicle used in violation of section twenty-six may be seized, libeled and forfeited to the commonwealth in accordance with the provisions of chapter 257.

SECTION 19. Said chapter 90B is hereby further amended by adding, after section 26, the following sections:-

Section 26A. No person shall operate a snow vehicle or a recreation vehicle in a manner that harasses or otherwise harms deer or other wildlife or domestic animals. No person shall operate a snow vehicle or a recreation vehicle in a reforested or planted area in a manner that causes damage to growing stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes damage to public or private property, including but not limited to, lands owned or managed by the department of conservation and recreation or the division of fisheries and wildlife or other conservation lands, wetlands or other waters of the commonwealth, priority habitats delineated by the division of fisheries and wildlife pursuant to chapter 131A, lands used for public water supply purposes or historic or archaeological sites.

Section 26B. (a) No person shall operate a snow vehicle or a recreation vehicle on privately owned property, except in cases of emergency, unless: (a) the operator is the owner or lessee or immediate family member of the owner or lessee of such property; (b) the operator has in his possession either a document, signed by the owner or lessee of such property or his agent, authorizing the operation of a said

vehicle on such property by the operator or valid proof of current membership in a club, association or other organization to which express authorization for the operation of said vehicles on such property has been granted; provided, however, that such operation shall be consistent with the express authorization so granted and any restrictions imposed therewith; or (c) the owner or lessee of such property has designated the area for use by said vehicles by posting reasonable notice of such designation in a manner approved by the director.

(b) No person shall operate a snow vehicle or a recreation vehicle on publicly owned property without the permission of the owner. In the case of a recreation vehicle, the operation of such vehicle shall be on an authorized recreation vehicle trail system, unless otherwise approved by the owner.

(c) Any snow vehicle or recreation vehicle used in violation of section 26B may be impounded by a law enforcement officer for a period of not less than thirty days nor more than one year from and after the date the owner or operator of the vehicle is convicted of such violation.

Section 26C. No one shall carry a firearm, rifle or shotgun in or on a snow vehicle or a recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an enclosed case, unless he is a law enforcement officer or other person authorized to carry arms as specifically described in section 32, or a paraplegic as provided in section 65 of chapter 131.

Section 26D. (a) No person under 16 ½ years of age shall operate a snow vehicle or a recreation vehicle across or on a public highway. No person under 14 years of age shall operate a snow vehicle or a recreation vehicle unless directly supervised by an adult that is 18 years of age or older. For the purposes of this section, direct supervision shall mean that the supervising adult shall be at all times sufficiently close to the supervised person, such that a reasonable person under the totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape and geography of the location, and the operator's wearing of protective headgear, with or without the use of an operator communications

system associated with the headgear, would believe that he is maintaining visual contact and is able to communicate visually or orally with the operator at all times.

(b) The director may, after consultation with the state off-highway advisory committee and a public hearing, promulgate regulations that further limit or otherwise address the age at which persons may operate a snow vehicle or a recreation vehicle in the commonwealth or that regulates the size and speed capabilities of said vehicles or other safety related limitations based on the age of the operator.

Section 26E. A motor vehicle operator's license or learner's permit shall not be required for the operation of a snow vehicle or a recreation vehicle, except as otherwise provided in section 25 of chapter 90B.

Section 26F. All operators of recreation vehicles born after January 1, 1990 shall successfully complete a recreation vehicle safety and responsibility course approved by the director of the office of environmental law enforcement. A parent or the legal guardian of an operator of recreation vehicles under sixteen years of age shall participate in at least 1 session of the safety and responsibility course or as required by the director in his approval of said course. Proof of the successful completion of the recreation vehicle safety and responsibility course shall be carried on the person of the operator while operating a recreation vehicle. Proof of an operator's successful completion of another state's equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be valid in the commonwealth.

Section 26G. (a) No owner of a snow vehicle or a recreation vehicle or other person shall authorize a person under 18 years of age to operate said vehicle in violation of the age restrictions in chapter 90B or in regulations promulgated thereunder.

(b) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person under 18 years of age to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and severally, with the operator for any violation of applicable laws and regulations, or damage or injuries caused by said minor's operation of the vehicle and for any fines, penalties or restitution resulting therefrom.

(c) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person 18 years of age or older to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and severally, with the operator, for any violation of applicable laws and regulations, or damage or injuries caused by said person's operation of the vehicle and for any fines, penalties or restitution resulting therefrom, provided, however, that the owner or other person authorizing the use of the snow vehicle or recreation vehicle knew or had reason to know that the operator of the vehicle had or would commit the offense or offenses resulting from said operation.

SECTION 20. Section 32 of said chapter 90B is hereby amended by striking the first paragraph and inserting in place thereof the following paragraphs:-

The provisions of sections 21 to 34, inclusive, and all the rules and regulations made under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the office of environmental law enforcement, executive office of energy and environmental affairs, police officers, members of the state police, and city and town police officers or employees of the commonwealth having police powers on public lands. Whoever while operating or in charge of any snow or recreation vehicle, other than on property owned by him, refuses to stop such vehicle after being requested or signaled to do so by any such officer, or whoever refuses to give his true and correct name and address or refuses to display the certificate of number of such vehicle or refuses to provide or display other required vehicle identification information and surrender to such officer for examination shall be punished by a fine of not less than \$100 nor more than \$250. Such officers may, in the performance of their duty, enter upon and pass through or over private lands or property.

Any officer authorized to make arrests may arrest without a warrant and keep in custody for not more than 24 hours, unless a Saturday, Sunday or a legal holiday intervenes, any person who violates the

provisions of this section. Any arrest made pursuant to this section shall be deemed an arrest for the criminal offense or offenses involved and not for any civil infraction arising out of the same incident.

SECTION 21. Section 34 of Chapter 90B is hereby amended by striking the section in its entirety and inserting in place thereof the following:-

Section 34. Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation made thereunder, shall be punished by a fine of not less than \$100 nor more than \$250.

Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation made thereunder more than once within 24 months shall be punished by a fine of not less than \$250 dollars nor more than \$500 or imprisonment for not less than 30 days nor more than 1 year, or both such fine and imprisonment.

Whoever violates any provision of section 25 or section 26 A to 26G or section 27, inclusive, or of any rule or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than \$250, or by a fine of not less than \$250 nor more than \$1,000 or imprisonment for not less than 60 days nor more than 1 year or both such fine and imprisonment.

SECTION 22. Section 35 of Chapter 90B is hereby amended by striking the section in its entirety and inserting in place thereof the following section:-

Section 35. All fees collected by the commonwealth pursuant to sections 21 to 32, inclusive, shall be credited to the Off Highway Program Fund established pursuant to section 18C of chapter 21A.

SECTION 23. Section 121A of chapter 266 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting, in line 6, after the word “dollars” the following words:-

“, except as otherwise provided in this section.”

SECTION 24. Section 121A of said chapter 266 is hereby further amended by inserting, after the first paragraph, the following sentences:-

Whoever, without right, enters upon the land of another, whether said land is publicly or privately owned and whether or not such land is posted against trespass, and in so entering makes use of or has in his immediate possession or control any motor vehicle, as defined in chapter 90, shall be punished by a fine of not less \$250 nor more than \$500, or by a fine of not less than \$250 nor more than \$1,000 or imprisonment for not less than 60 days nor more than one year or both such fine and imprisonment, and restitution to the property owner for any damages resulting from the trespass. If the property is not posted against trespass or is not posted with ownership information, no fine or penalty shall be imposed for a trespass by a snow vehicle on said property or on trails located therein, provided trespass is unintentional.

Before the final disposition of a complaint filed pursuant to this section, the court shall hold a hearing to assess damages resulting from the trespass and it shall order the defendant to pay restitution for all damages incident to the trespass, including but not limited to, environmental damages such as erosion and compaction of soils, damage to wetland areas, disturbance of habitat, harassment or destruction of wildlife, and damage to crops, planted areas, forests, and fields.

SECTION 25. The requirement in Section 7 that a snow vehicle or a recreation vehicle must be registered in accordance with chapter 90B even if such vehicles are operated exclusively on land owned by the owner of such vehicle shall take effect as of May 1, 2009; provided, however, that no penalty shall be assessed for such violation of section 21 of chapter 90B on or before September 1, 2009.

SECTION 26. The requirement in sections 7 and 8 that the owner of a snow vehicle or a recreation vehicle purchased in Massachusetts but used exclusively outside of the state or used exclusively for agriculture, forestry, lumbering or construction purposes must file a certificate of exemption in accordance with chapter 90B shall take effect as of May 1, 2009; provided, however, that no penalty shall be assessed for such violation of sections 21 and 22 of chapter 90B on or before September 1, 2009.

SECTION 27. Section 26F of chapter 90B shall take effect on May 1, 2009; provided, however, that no penalty shall be assessed for such violation of section 26F of chapter 90B on or before September 1, 2009.